

***Remarks***

***I. Status of the Claims***

Reconsideration of this Application is respectfully requested.

Upon entry of the foregoing amendment, claims 83-132 are pending in the application, with claims 83 and 108 being the independent claims. Claims 87-90, 93-96, 112-115, and 118-121 are sought to be cancelled without prejudice to or disclaimer of the subject matter therein. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding rejections and that they be withdrawn.

***II. Amendments to the Specification***

The amendment at page 1 after the title is made to update the status of the application to which the present application claims priority.

The paragraphs at page 17, lines 8-10, page 17, line 34 to page 18, line 8, page 18, lines 9-11, page 28, lines 1-13, page 47, lines 7-19, page 49, lines 19-21, page 50, lines 3-15, page 51, line 29 to page 52, line 7, page 56, lines 4-15, page 58, lines 6-18, and page 62, lines 24-36 are amended to correct numbering of Figures 2, 6, and 7 on the formal drawings submitted on January 27, 2004.

Upon consideration of the support found in the specification including the formal drawings, these amendments do not introduce new matter.

***III. Summary of the Office Action***

In the Office Action dated September 5, 2008, the Examiner has made two rejections of the pending claims. Applicants respectfully offer the following remarks in response to the rejections.

***IV. Rejection under 35 U.S.C. § 112, First Paragraph***

The Examiner has rejected claims 83-86, 91, 92, 97-111, 116, 117, and 122 under 35 U.S.C. § 112, first paragraph for lack of enablement. In particular, the Examiner stated that "the specification lacks complete deposit information for the deposit of the plasmid pJJ36-J having ATCC Accession No. PTA-3719 and plasmid pAH342 obtainable from *E.coli* BL21 (pAH342) assigned ATCC accession number 98538." Office Action at page 3.

In accordance with 37 C.F.R. §§ 1.801-1.809, Applicants hereby submit a statement by the undersigned that both plasmids were deposited under the Budapest Treaty. *See* Statement Concerning the Deposited Clones with attached ATCC Deposit Receipts.

Therefore, Applicants respectfully request that the rejection be withdrawn.

***V. Obviousness Type Double Patenting Rejection***

The Examiner provisionally rejected the pending claims for obviousness type double patenting as being unpatentable over claims 243-250 and 253-266 of co-pending, allowed U. S. Patent Application Serial No. 08/942,596 (Atty. Dkt. No. 2479.0040000/EKS/EJH) ("the '596 application").

Solely to expedite allowance of the claims, and not in acquiescence to the Examiner's rejection, Applicants submit herewith a Terminal Disclaimer under 37 C.F.R. § 1.132(c) over the '596 application. Accordingly, this rejection has been overcome. Thus, Applicants respectfully request that the rejection be withdrawn.

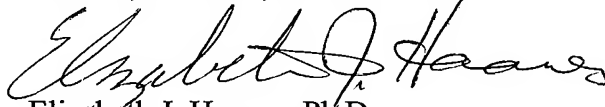
***Conclusion***

All of the stated grounds of rejections have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.



Elizabeth J. Haanes, Ph.D.  
Attorney for Applicants  
Registration No. 42,613

Date: Sept 22, 2008

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

W. James JACKSON *et al.*

Appl. No.: 10/766,711

Filed: January 27, 2004

For: **Chlamydia Protein, Sequence and  
Uses Thereof**

Confirmation No.: 4900

Art Unit: 1645

Examiner: BASKAR, Padmavathi

Atty. Docket: 2479.0040003/EJH/C-K

**Statement Concerning the Deposited Clones**

Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450


Sir:

The following statement is in accordance with 37 C.F.R. §§ 1.801-1.809. A plasmid containing a polynucleotide encoding a full length HMW protein, *i.e.*, pAH342, from *Chlamydia trachomatis* was deposited at the American Type Culture Collection ("ATCC"), Patent Depository, located at 10801 University Boulevard, Manassas, VA 20110-2209, on September 8, 1997 under Accession number 98538. A plasmid containing a polynucleotide encoding an N-terminal fragment of the HMW protein, *i.e.*, pJJ36-J, was deposited at the ATCC on September 20, 2001 under Accession number PTA-3719. As noted on the attached deposit receipts, both deposits were made under the terms of the Budapest Treaty.

Assurance is hereby given that all restrictions on the availability to the public of the deposited clones will be irrevocably removed upon the granting of a patent, subject to 37 C.F.R. § 1.808(b). In accordance with 37 C.F.R. § 1.806, assurance is further given that the deposits will be maintained for a term of at least thirty (30) years and at least five (5) years after the most recent request for the furnishing of a sample of the deposits.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.

  
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Attorney for Applicants  
Registration No. 42,613

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# ATCC

10301 University Blvd • Manassas, VA 20110-2209 • Telephone: 703-365-2700 • FAX: 703-365-2745

## BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

### INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3  
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

To: (Name and Address of Depositor or Attorney)

Antex Biologics Inc.  
Attn: Martha Lubet  
300 Professional Dr., Suite 100  
Gaithersburg, MD 20879

Deposited on Behalf of: Antex Biologics Inc.

Identification Reference by Depositor:

E.coli containing DNA from Chlamydia trachomatis: E.coli TOP10 (pJJ36-J)

Patent Deposit Designation  
PTA-3719

The deposit was accompanied by:     a scientific description     a proposed taxonomic description indicated above.

The deposit was received September 20, 2001 by this International Depository Authority and has been accepted.

AT YOUR REQUEST:   X   We will inform you of requests for the strain for 30 years.

The strain will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strain, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strain.

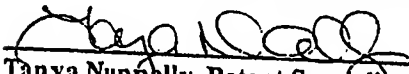
If the culture should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace it with living culture of the same.

The strain will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the culture cited above was tested October 4, 2001. On that date, the culture was viable.

International Depository Authority: American Type Culture Collection, Manassas, VA 20110-2209 USA.

Signature of person having authority to represent ATCC:

  
Tanya Nunally, Patent Specialist, Patent Depository

Date: October 23, 2001

cc: S. Leslie Misrock, Esq.  
(Ref: Docket or Case No.: 7969)



# American Type Culture Collection

12301 Parklawn Drive • Rockville, MD 20852 USA • Telephone: 301-231-5519 or 231-5532 • FAX: 301-816-4366

BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF  
THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE

## INTERNATIONAL FORM

RECEIPT IN THE CASE OF AN ORIGINAL DEPOSIT ISSUED PURSUANT TO RULE 7.3  
AND VIABILITY STATEMENT ISSUED PURSUANT TO RULE 10.2

To: (Name and Address of Depositor or Attorney)

Antex Biologics Inc.  
Attn: Theresa M. Smith  
300 Professional Drive  
Gaithersburg, MD 20879

Deposited on Behalf of: Antex Biologics Inc.

Identification Reference by Depositor:

ATCC Designation

*Escherichia coli* BL21 containing plasmid (pAH342)

98538

The deposit was accompanied by: \_\_\_ a scientific description X a proposed taxonomic description indicated above.

The deposit was received September 8, 1997 by this International Depository Authority and has been accepted.

AT YOUR REQUEST: X We will inform you of requests for the strain for 30 years.

The strain will be made available if a patent office signatory to the Budapest Treaty certifies one's right to receive, or if a U.S. Patent is issued citing the strain, and ATCC is instructed by the United States Patent & Trademark Office or the depositor to release said strain.

If the culture should die or be destroyed during the effective term of the deposit, it shall be your responsibility to replace it with living culture of the same.

The strain will be maintained for a period of at least 30 years from date of deposit, or five years after the most recent request for a sample, whichever is longer. The United States and many other countries are signatory to the Budapest Treaty.

The viability of the culture cited above was tested September 12, 1997. On that date, the culture was viable.

International Depository Authority: American Type Culture Collection, Rockville, Md. 20852 USA

Signature of person having authority to represent ATCC:

Barbara M. Hailey  
Barbara M. Hailey, Administrator, Patent Depository

Date: September 12, 1997

cc: S. Leslie Misrock, Esq. (Ref. Docket 7969-062)